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FILED

OCT 30 1985

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

ORIGINAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CHIROPRACTIC EXAMINERS
DOCKET NO.

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

Administrative Action

Theodore Horner, D.C.
License No. 1428

COMPLAINT

TO PRACTICE CHIROPRACTIC :
MEDICINE IN THE STATE OF :
NEW JERSEY :

Deborah T. Poritz, Attorney General of New Jersey, by Pauline
Foley, Deputy Attorney General, with offices located at the Division
of Law, Fifth Floor, 124 Halsey Street, Newark, New Jersey 07102, by
way of Complaint, says:

COUNT I

1. Complainant Attorney General of New Jersey is charged
with enforcing the laws of the State of New Jersey pursuant to N.J.S.A.
52:17A-4 and is empowered to initiate administrative disciplinary
proceedings against persons licensed by the Board of Chiropractic
Examiners pursuant to N.J.S.A. 45:1-14 et seq.

2. The New Jersey State Board of Chiropractic Examiners is empowered with the duty and responsibility of regulating the practice of medicine & surgery in the State of New Jersey pursuant to N.J.S.A. 45:9-41 et seq. and N.J.S.A. 45:1-14 et seq.

3. Respondent Theodore Horner, D.C., is the holder of License No. 1428, with offices at 304 Farnsworth Avenue, Bordentown, N.J., and presently holds a license which is current and valid.

4. Respondent's license registration lapsed in 1981 for nonpayment of his biennial registration fee, and was not renewed by him until April 6, 1994.

5. Despite not holding a valid license since 1981, respondent continued to engage in the practice of chiropractic medicine at his office up to at least March, 1994, having treated over 3,000 patients.

6. By the foregoing, respondent practiced chiropractic without a license for over 12 years in violation of N.J.S.A. 45:9-41.11 and is therefore subject to the penalties set forth in N.J.S.A. 45:9-22 pursuant to N.J.S.A. 45:1-21(h) for each separate act of practicing chiropractic without a license.

COUNT II

1. Complainant repeats the allegations of Count I as if fully set forth herein.

2. Respondent treated B.P., a Medicare beneficiary, from 1992 to 1993. During that time, B.P. paid cash for his treatment and, as known by respondent, relied upon respondent to submit his claims for Medicare reimbursement to Medicare on a timely basis.

3. Respondent persistently failed to submit the claims for B.P.'s reimbursement and, as a result, B.P. was unable to recoup these amounts in a timely manner because such claims were required to be submitted within specified time frames.

4. Respondent's failure to attend to his obligations on behalf of his patient B.P. constitutes professional misconduct and repeated acts of negligence, and constitutes grounds for disciplinary sanction pursuant to N.J.S.A. 45:1-21 (c) and (e).

COUNT III

1. Complainant repeats the allegations of Counts I and II as if fully set forth herein.

2. On March 24, 1994, respondent appeared before the Chiropractic Examining Board's Preliminary Investigative Committee pursuant to a subpoena duces tecum and ad testificandum which directed him to appear and produce his complete patient records and correspondence on patient B.P. Respondent appeared without the complete subpoenaed files, therefore obstructing the Board's investigation.

3. The foregoing constitutes professional misconduct, which constitutes grounds for suspension or revocation of respondent's license pursuant to N.J.S.A. 45:1-21(e)

COUNT IV

1. Complainant repeats the allegations of Counts I - III as if fully set forth herein.

2. On March 24, 1994, respondent appeared before the Chiropractic Examining Board's Preliminary Investigative Committee

pursuant to subpoena to answer questions pertaining to the above-described matters. Respondent's behavior and verbal communications evidenced psychological disturbance which rendered him incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare. To wit:

(a) He was unable to provide any plausible explanation for his failure to renew his chiropractic license from 1981 to 1994 and to pay the FAIR Act assessments of \$100 per year from 1990 to 1994, in light of the fact that his registered business address had not changed.

(b) He was unable to provide any coherent explanation for his failure to submit the patient's Medicare claims to Medicare within the required time frames for the patient to receive Medicare reimbursement.

(c) He was unable to provide any explanation for the fact that he failed to respond to three letters from the Board calling for production of documentation, other than to say "There is no reason."

(d) In connection with his appearance at the Preliminary Investigative Committee, he provided the Executive Director of the Board with a phone number for an emergency contact in the event that he became ill during the investigative hearing as well as with information about the location of his car. His only explanation for doing so was that his mother had died of a stroke in 1988 and he had been having some pains in his head for awhile.

3. The foregoing acts constitute grounds pursuant to N.J.S.A. 45:1-21(i) for the suspension, revocation or other limitation of respondent's license to practice chiropractic in this State as they demonstrate that respondent lacks the capacity to discharge the duties of a licensee.

WHEREFORE, it is respectfully demanded that the State Board of Chiropractic Examiners:

1. Suspend or revoke the license heretofore issued to respondent Theodore Horner, D.C. to practice chiropractic medicine in the State of New Jersey;
2. Issue an Order directing respondent to cease, desist and refrain from the practice of chiropractic medicine in the State of New Jersey;
3. Assess such monetary penalties for each separate unlawful act set forth in Counts I-V above;
4. Order payment of costs, including investigative costs, fees for expert witness and costs of trial, including transcripts;
5. Issue an Order directing respondent to restore to any party or governmental entity aggrieved by the unlawful acts or practices of respondent, any monies acquired by respondent in the course of such conduct;
6. Order respondent to undergo psychological evaluation by a state-licensed psychologist acceptable to the Board as a condition for continued practice of chiropractic; and

7. Order such other and further relief as the Board of Chiropractic Examiners shall deem just and appropriate.

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: 

Pauline Foley
Deputy Attorney General

DATED: October 30, 1995